

## INTRODUCTION

The Michigan Department of Human Services (DHS) provides title IV-E funded and state funded adoption support subsidy for special needs children. Title IV-E adoption support subsidy is based on federal title IV-E funding guidelines. State funded adoption support subsidy is based on state guidelines and provides subsidy for special needs children who do not qualify for title IV-E funded support subsidy. Eligibility for either of these programs results in issuance of a DHS-4113, Adoption Assistance Agreement.

In order for a child to be eligible for adoption support subsidy, eligibility must be determined by DHS, and the DHS-4113, Adoption Assistance Agreement, must be negotiated and signed by the adoptive parent(s) **and** the adoption subsidy program manager or DHS designee prior to the final order of adoption.

## APPLICATION PROCESS

Applications for adoption support subsidy are submitted by the adoption worker who is responsible for the care and supervision of the child. In cases where the prospective adoptive family is working with an agency that does not have care and supervision of the identified child, the application for subsidy may be submitted by either the child's or the family's worker, through a cooperative effort between the agencies. The application is submitted when the child is legally free for adoption through termination of all parental rights and an appropriate family has been identified. For an American Indian child who can be adopted without termination of parental rights, the tribe must document a valid reason why the child cannot or should not be returned to the home of the parents.

The adoption agency must submit the DHS-1341, Adoption Assistance and/or Medical Subsidy Application, and required supporting documentation, listed on the DHS-1341 for every child whose prospective adoptive parent(s) are requesting a subsidy determination.

The supporting documentation must be current at the time the **complete** application is received in the Adoption Subsidy Office in order for it to be accepted and not be subject to expiration during the review process.

The Adoption Subsidy Office located in DHS Central Office makes all eligibility determinations.

**CHILD WITH  
SPECIAL NEEDS**

A child's eligibility for either title IV-E funded or state funded adoption support subsidy is based, in part, on the state's determination that the child has special needs.

**Federal Definition**

A determination of special needs is a three-part requirement established in section 473(c) of the Social Security Act (42 USC 673(c)). All three parts of the special needs provision must be met to be considered a child with special needs. The determination of special needs must be made by DHS and a negotiated adoption support subsidy agreement must be signed **prior** to the final order of adoption.

The three parts of the federal special needs determination are as follows:

1. The child cannot or should not be returned to the home of his or her parents.
2. A specific factor or condition exists which makes it reasonable to conclude that the child cannot be adopted without providing title IV-E adoption subsidy or title XIX medical assistance.
3. The state must make a reasonable, but unsuccessful, effort to place the child for adoption with appropriate adoptive parent(s) without providing adoption support subsidy, except in cases where it would be against the best interests of the child due to the existence of significant emotional ties with the prospective adoptive parent(s).

**Michigan Special  
Needs  
Requirements**

Michigan has specific requirements to meet both the federal definition and the state's special needs eligibility criteria.

At the time of eligibility determination, the child must be a child with special needs. A child is considered a child with special needs if DHS has determined **all** of the following:

1. The child is under age 18.

2. The parental rights to the child have been terminated.
  - If an American Indian child can be adopted in accordance with tribal law without a termination of parental rights and the tribe has documented a valid reason why the child cannot or should not be returned to the home of the parents, termination is not required.
  - State funded eligibility requirement: Termination of parental rights must be under MCL 712A.19b (abuse and neglect) or MCL 710.29 (release) while the child was involved in an abuse or neglect proceeding.
3. The child has **one** of the following **specific factors or conditions**:
  - Eligibility for Supplemental Security Income (SSI), based solely on the medical and disability requirements without regard to the SSI income requirements, as determined by the Social Security Administration.
  - A DHS foster care level II or above determination of care (DOC) rate that meets all of the following:
    - Documented by the DHS-470, 470A or 1945.
    - Supported by the current foster care updated service plan (USP/PWSP).
    - Approved in accordance with DHS foster care policy.
  - The child is at least age 3.
  - The child is being adopted by a relative (within the 5th degree of consanguinity); see CFG Glossary.
  - The child is being adopted by the parent(s) of his/her previously adopted sibling.
  - The child is a member of a sibling group being adopted together and at least one sibling group member has been determined eligible for adoption support subsidy as an individual.
4. An effort to place the child without providing adoption support subsidy is demonstrated by the adoptive parent(s) signature(s)

in Section 1 of the DHS-4081, Adoption Assistance Intent Statement.

## **TITLE IV-E FUNDING ELIGIBILITY REQUIREMENTS**

Effective October 1, 2009, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P. L. 110-351) phases in revised title IV-E funding eligibility requirements for specific special needs children over a nine-year period. A special needs child to whom the revised eligibility requirements apply is referred to in the federal law as an **applicable child**; see Appendix.

In order to qualify for adoption support subsidy funded by title IV-E, a child who meets the state's special needs requirements must also meet either the **applicable child** or **not applicable child** requirements.

The following citizenship, felony conviction, and agreement requirements apply to both applicable child and not applicable child title IV-E funded cases.

### ***Citizenship Status***

The child must be a U.S. citizen or qualified alien; see FOM 902.

### ***Felony Convictions***

Adult members of the adoptive household must not have any felony convictions for any of the following crimes:

- Child abuse/neglect.
- Spousal abuse.
- A crime against children (including child pornography).
- A crime of violence, including rape, sexual assault or homicide, but not including other physical assault or battery.
- Within the last five years only: physical assault, battery or drug-related offense.

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**Title IV-E  
Applicable Child  
Requirements**

In addition to meeting the citizenship and background check requirements, the child must meet one and two below:

1. An **applicable child** is a special needs child who meets one or more of the following requirements immediately prior to finalization of the adoption:
  - Meets the applicable age requirements (as indicated in the Appendix).
  - Has been in foster care during any 60 consecutive months prior to the finalization of the adoption.
  - Is a sibling to a child who meets one of the above applicable child requirements and will be adopted by the same adoptive family.
2. The **applicable child** must also meet **one** of the following title IV-E funding eligibility requirements:
  - The child, at the time of the initiation of the adoption proceedings, was in the care of a public or private licensed placement agency foster care (PAFC) provider or Indian tribal organization pursuant to one of the following:
    - An involuntary removal in accordance with and at the time of a judicial determination to the effect that it was contrary to the child's welfare to remain in the home.  
  
**Note: For children removed prior to March 27, 2000-** the court finding of contrary to the welfare or best interest does not need to be made within the first court order. This determination must be part of a written court order issued prior to or at the time of the dispositional order.
    - A voluntary placement agreement or voluntary relinquishment.
  - The child meets all medical and disability requirements of Supplemental Security Income (SSI).

- The child was residing in a foster family home or child care institution with his/her minor parent and the minor parent was removed from the home pursuant to either:
  - An involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home.
  - A voluntary placement agreement or voluntary relinquishment.
- The child was adopted and was determined eligible for title IV-E adoption assistance in a prior adoption and is available for adoption because the prior adoption has been dissolved or the child's adoptive parents have died. (The child must be re-determined to be a special needs child by DHS in order to be eligible for adoption assistance in the subsequent adoption.)

**Signed Agreement**

A negotiated DHS-4113, Adoption Assistance Agreement, must be signed by the adoptive parent(s) and the adoption subsidy program manager or DHS designee **prior** to the final order of adoption.

**International  
Adoptions**

Title IV-E prohibits the payment of title IV-E adoption assistance on behalf of an **applicable child** who is not a citizen or resident of the United States (U.S.) and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted.

**Title IV-E Not  
Applicable Child  
Requirements**

A special needs child who is referred to as a **not applicable child** is one to whom the revised title IV-E funding requirements do not apply and to whom the eligibility requirements in place prior to October 1, 2009 do apply.

In addition to meeting the citizenship and background check requirements the special needs child must meet one of the following four pathways in order to receive title IV-E funding (42 USC 673):

1. The special needs child must meet both of the following criteria in order to receive title IV-E funding (42 USC 673):
  - The child was eligible for the former Aid to Families with Dependent Children (AFDC) program\* at the time of removal from the specified relative home.
  - The child was removed from the home due to a judicial determination; the determination must indicate that it was contrary to the child's welfare to remain in the home.

**Note: For children removed prior** to March 27, 2000- the court finding of contrary to the welfare or best interest does not need to be made within the first court order. This determination must be part of a written court order issued prior to or at the time of the dispositional order.

\* Based on the state's approved AFDC plan in effect 7/16/1996.

2. The child meets all of the medical or disability requirements for Supplemental Security Income (SSI) benefits.
3. The child is a child of a minor parent covered by title IV-E foster care payments. The minor parent is in foster care and receives a title IV-E foster care maintenance payment that covers both the minor parent and the child of the minor parent and the child of the minor parent meets the special needs requirements. There is no requirement that the child must have been removed from home due to a voluntary placement agreement or as a result of a judicial determination.
4. The child was eligible for title IV-E adoption support subsidy in a previous adoption and the state has determined that the child continues to meet the special needs criteria. The manner of removal from the adoptive home is not relevant for a subsequent adoption. Title IV-E eligibility does not need to be re-established in a subsequent adoption.

### **Signed Agreement**

A negotiated DHS-4113, Adoption Assistance Agreement, must be signed by the adoptive parent(s) and the adoption subsidy program manager or DHS designee **prior** to the final order of adoption.

**State- Funded  
Adoption Support  
Subsidy**

If the Michigan requirements for a child with special needs are met but the child does not meet the title IV-E funding eligibility factors above, a state- funded adoption support subsidy is offered.

**Adoption  
Following a  
Juvenile  
Guardianship**

If a child was placed with a relative in juvenile guardianship, a determination of eligibility for adoption assistance will not consider the guardianship placement or assistance payments that were made for the child. If the child was eligible for title IV-E adoption assistance prior to the juvenile guardianship, the title IV-E funding eligibility will be carried forward to adoption.

**Adoption  
Following a  
Dissolved  
International  
Adoption**

A child who is not a citizen or resident of the United States and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for adoption assistance if the initial adoption of the child is dissolved and the child is subsequently placed into foster care through the public child welfare system. The child's circumstances must meet the state's special needs eligibility requirements.

**Background  
Checks**

Federal law (P.L. 109-248) requires background checks for all adults in the adoptive household regardless of whether title IV-E or state-funded adoption subsidy payments are to be made on behalf of the child; see ADM 0520.



**Adoption by  
Birth/Legal  
Parent(s)**

Adoption support subsidy must not be approved for adoption by the child's biological or legal parent(s) whose rights were previously terminated.

**AGREEMENT**

A written adoption subsidy agreement (DHS-4113, Adoption Assistance Agreement):

- Is negotiated between the parent(s) and DHS or contracted private adoption agency.
- Specifies the negotiated amount of adoption support subsidy to be paid.
- Must be signed by the parent(s) and adoption subsidy program manager or DHS designee prior to the final order of adoption.
- Specifies whether the child has been determined eligible for title IV-E or state-funded adoption support subsidy, nonrecurring adoption expenses reimbursement and Medicaid.

Detailed information about the agreement is in AAM 500, Adoption Subsidy Agreements - All Programs.

**Effective Date**

If the DHS-4113, Adoption Assistance Agreement is signed **before** the adoptive placement date, the adoption support subsidy payment is effective the date of the PCA 320, Order Placing Child After Consent.

If the DHS-4113, Adoption Assistance Agreement is signed **after** the adoptive placement date, but prior to or on the date of the adoption finalization, the adoption support subsidy payment is effective the date the adoption subsidy program manager or DHS designee signs the agreement.

**Note:** Although policy allows for determination of adoption support subsidy eligibility after the petition for adoption is filed, DHS and private contract agency workers are expected to have adoption assistance agreements signed by all parties before the court signs the PCA 320, Order Placing Child After Consent. This practice

allows adoption support subsidy payments to begin at the earliest allowable date.

**State of Residency  
of Adoptive  
Parents**

Michigan adoption subsidy agreements remain in effect regardless of the state of residence of the adoptive parent(s).

**CHANGES IN  
FAMILY OR CHILD'S  
CIRCUMSTANCES**

After an adoption support subsidy application has been submitted and/or approved or denied, the adoption worker **must** submit a new DHS 1341, Adoption Assistance and Medical Subsidy Application, if there is a change in the child's adoption plan or circumstances before adoption finalization. The child's eligibility for the adoption support subsidy and nonrecurring adoption expenses programs must be redetermined.

**Changes Before  
Adoptive  
Placement**

The adoption worker must report changes in the adoption plan or foster care rate to the Adoption Subsidy Office. A new determination of eligibility/maximum rate is required. If the child is determined eligible, a new DHS-4113, Adoption Assistance Agreement, is issued and must be negotiated and signed by the adoptive parent(s) and the adoption subsidy program manager or DHS designee prior to the final order of adoption. Examples of changes are:

- Divorce of prospective adoptive parent(s).
- Marriage of the prospective adoptive parent(s).
- Death of prospective adoptive parent(s).
- Change in plan for adoption by the prospective adoptive family.
- Increase or decrease in the amount of the foster care maintenance payment that the child is receiving or would have received in a family foster home.

***Adoption Plan Changes***

Each change in the adoption plan requires a new complete DHS-1341, Adoption Assistance and/or Medical Subsidy Application with

required documentation, and DHS-4081, Adoption Assistance Intent Statement.

***Rate Changes***

Each change in rate requires a DHS-4817, Adoption Subsidy Program Change Request, current DOC assessment and supporting documentation.

**NOTIFICATION  
REQUIREMENTS**

When a change is made in the child's adoption plan or placement, the adoption worker must notify the Adoption Subsidy Office within 30 Calendar days of the change. Adoption support subsidy eligibility is not transferable from one family to another.

The DHS-4817, Adoption Subsidy Change Report, is used to report all changes, prior to adoption finalization.

**Changes After  
Adoptive  
Placement  
(Disrupted  
Adoption)**

If the placement of a child in an adoptive home ends prior to the finalization of the adoption, the adoption worker must notify the Adoption Subsidy Office immediately by submitting the court order and a DHS-4817, Adoption Change Report, explaining the reason for disruption. If the child is subsequently matched with another adoptive family, a complete DHS-1341 with required documentation must be submitted for the new placement, a determination of eligibility must be made and a DHS-4113, Adoption Assistance Agreement must be signed by the adoptive parent(s) and adoption subsidy program manager or DHS designee prior to the final order of adoption.

**Changes After  
Adoption  
Finalization  
(Dissolved  
Adoption)**

If the adoption of a child is ended through termination of parental rights, the adoption support subsidy ends. If the child is subsequently matched with another adoptive family, a complete DHS-

1341 with required documentation must be submitted for the new placement, a new determination of special needs eligibility must be made, and a DHS-4113, Adoption Assistance Agreement must be signed by the adoptive parent(s) and adoption subsidy program manager or DHS designee prior to the final order of adoption. If a child was eligible for title IV-E funded support subsidy in the previous adoption, the title IV-E funding eligibility is carried forward to the subsequent adoption if the child continues to be a special needs child, as determined by the state.

**Changes after  
Adoption  
Finalization (Death  
of Adoptive  
Parent(s))**

If a legal guardian is appointed after the death of the adoptive parent(s) continuation of adoption support subsidy with state funds may be available under MCL 400.115j(5); see AAM 620.

**APPENDIX - TITLE  
IV-E FUNDING**

**TITLE IV-E FUNDING**

**APPLICABLE CHILD ELIGIBILITY CHART**

473 of the Social Security Act (4225c673)

		<b>FEDERAL FISCAL YEAR</b>								
		<b>October 1 – September 30</b>								
<b>HIGHEST AGE ATTAINED BY THE CHILD DURING FISCAL YEAR</b>		2010	2011	2012	2013	2014	2015	2016	2017	2018
	18+									
	17									
	16									
	15									
	14									
	13									
	12									
	11									
	10									
	9									
	8									
	7									
	6									
	5									
	4									
	3									
	2									
	1									
	0									

**Applicable Child  
Revised Eligibility Criteria Apply  
(sec 473(a)(2)(A)(ii))**

**Not an applicable child –  
Preexisting Eligibility Criteria  
Apply  
(sec. 473(a)(2)(A)(i))**

Social Security Act